

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE:	)	CASE NO. 17-69508-PMB
	)	
Antonio Dwayne Jones,	)	CHAPTER 13
Debtor,	)	
Chonte Sheri Faulkner,	)	JUDGE BAISIER
Joint Debtor,	)	
Cynthia Faulkner,	)	
Non-Filing Co-Debtor,	)	
	)	
	)	
2017-2 IH Borrower, LP,	)	
Movant,	)	<b>CONTESTED MATTER</b>
	)	
vs.	)	
	)	
Antonio Dwayne Jones,	)	
Debtor,	)	
Chonte Sheri Faulkner,	)	
Joint Debtor,	)	
Cynthia Faulkner,	)	
Non-Filing Co-Debtor,	)	
Melissa J. Davey, Trustee,	)	
Respondents.	)	

**NOTICE OF HEARING**

PLEASE TAKE NOTICE that Movant has filed a **MOTION FOR RELIEF FROM STAY AND RELIEF FROM CO-DEBTOR STAY** and related papers with the Court seeking an Order Granting Motion for Relief from Stay.

PLEASE TAKE FURTHER NOTICE that the Court will hold a hearing on the **MOTION FOR RELIEF FROM STAY AND CO-DEBTOR STAY** in **Courtroom 1202**, U.S. Courthouse, 75 Ted Turner Drive (f/k/a Spring Street), S.W., Atlanta, Georgia 30303 at **1:30 p.m. on January 11, 2018**.

Your rights may be affected by the court's ruling on these pleadings. You should read these pleadings carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.) If you do not want the court to grant the relief sought in these pleadings or if you want the court to consider your views, then you and/or your attorney must attend the hearing. You may also file a written response to the pleading with the Clerk at the address stated below, but you are not required to do so. If you file a written response, you must attach a certificate stating when, how and on whom (including addresses) you served the response. Mail or deliver your response so that it is received by the Clerk at least two business days before the hearing. The address of the Clerk's Office is: Clerk's Office, 1340 Russell Federal Building, 75 Ted Turner Drive (f/k/a Spring Street), SW, Atlanta, Georgia 30303. You must also mail a copy of your response to the undersigned at the address stated below.

If a hearing on the motion for relief from the automatic stay cannot be held within thirty (30) days, Movant waives the requirement for holding a preliminary hearing within 30 days of filing the motion and agrees to a hearing on the earliest possible date. Movant consents to the automatic stay remaining in effect until the Court orders otherwise.

Dated: December 12, 2017.

O'KELLEY & SOROHAN  
ATTORNEYS AT LAW, LLC

/s/ Brandi N. Wade  
Brandi N. Wade  
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*2017-2 IH Borrower, LP*

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_____	)	_____
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2017-2 IH Borrower, LP,	)	
Movant,	)	<b>CONTESTED MATTER</b>
	)	
vs.	)	
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Antonio Dwayne Jones,	)	
Debtor,	)	
Chonte Sheri Faulkner,	)	
Joint Debtor,	)	
Cynthia Faulkner,	)	
Non-Filing Co-Debtor,	)	
Melissa J. Davey, Trustee,	)	
Respondents.	)	

**MOTION FOR RELIEF FROM STAY AND FROM CO-DEBTOR STAY**

COMES NOW 2017-2 IH Borrower, LP (“IH”) and files this its Motion for Relief from Stay and Co-Debtor Stay and shows the Court as follows:

1.

Antonio Dwayne Jones and Chonte Sheri Faulkner (“Debtors”), having filed a voluntary petition pursuant to 11 U.S.C. § 1301, *et seq.*, are subject to the jurisdiction of this Court.

2.

This Court has jurisdiction over this matter pursuant to 11 U.S.C. § 362.

3.

This Motion is filed pursuant to 11 U.S.C. § 362(d). This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(G).

4.

Movant IH is the owner of certain real property located at 2055 Registry Court, Hampton, Clayton County, Georgia (“Property”) leased to Debtors and non-filing Co-Debtor Cynthia Faulkner pursuant to a Residential Lease Agreement with a rental rate of \$1,210.00 per month for the term of August 16, 2017 through August 15, 2018 (“Lease”). In the event the rent is not paid on or before the third (3rd) day of the month, a late fee of \$121.00 is incurred.

5.

Debtors and non-filing Co-Debtor defaulted under the terms of the Lease by

failing to pay the monthly rent as required for October 2017 through the date of this Motion.

6.

Movant desires to dispossess Debtors and non-filing Co-Debtor, along with any other occupants, from the Property but is unable to exercise its state law remedies and pursue state law dispossessory proceedings as the automatic stay and co-debtor stay remains in effect.

7.

Debtors list the Lease in Schedule G [Doc. 8, p.24]. According to Debtors; Plan, Debtors intend to assume Lease [Doc 9, p. 3]. However, Movant alleges its interest is not adequately protected.

8.

Because there is no equitable or legal interest in the Property which could benefit the Estate and such property is not is not necessary to an effective reorganization, the Trustee's interest should be deemed abandoned, the Lease rejected, and the stay pursuant to 11 U.S.C. § 362(a) should be lifted for all purposes permitted by law with regard to Movant to allow it to proceed with dispossessory proceedings to dispossess Debtor, non-filing Co-Debtors, and all

other occupants, along with their personal property, and to obtain a monetary judgment as to all post-petition rents while Debtor and non-filing Co-Debtors remain in possession of the Property.

9.

Movant also requests an Order lifting the co-debtor stay pursuant to § 1301 for all purposes permitted by law with regard to Movant as to Non-Filing Co-Debtor Cynthia Faulkner so as to allow Movant to proceed with dispossessory proceedings to dispossess Debtors, non-filing Co-Debtor, and all other occupants, along with their respective personal property, and to obtain a monetary judgment as to all post-petition rents while non-filing Co-Debtor remains in possession of the Property.

**WHEREFORE**, Movant prays for the following relief:

- (A) An Order granting Movant relief from the automatic stay entered under §362 for all purposes allowed by applicable law, including but not limited to, authorizing Movant to exercise its state law rights, specifically to continue its dispossessory proceedings against Debtor, non-filing Co-Debtors, and all other occupants, to remove all the personal property and

- personal effects from the Property and to obtain a monetary judgment for all post-petition amounts currently due under the Lease;
- (B) An Order granting Movant relief from the co-debtor stay entered under § 1301 for all purposes allowed by applicable law, including but not limited to, authorizing Movant to exercise its state law rights, specifically to continue its dispossessory proceedings against Debtor, non-filing Co-Debtors, and all other occupants, to remove all the personal property and personal effects from the Property and to a monetary judgment for all post-petition amounts currently due under the Lease;
- (C) That the Lease be deemed rejected;
- (D) The Court award Movant the costs and fees of bringing this Motion;
- (E) The Court waive the 14-Day Stay of Bankruptcy Rule 4001(a)(3); and
- (F) For such other and further relief as the Court deems just and equitable.

Dated: December 12, 2017.

O'KELLEY & SOROHAN  
ATTORNEYS AT LAW, LLC

/s/ Brandi N. Wade  
Brandi N. Wade  
Georgia Bar No. 868917



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*2017-2 IH Borrower, LP*

### **CERTIFICATE OF SERVICE**

I hereby certify that on December 12, 2017, I electronically filed the foregoing Notice of Hearing and Motion for Relief from Stay and Relief from Co-Debtor Stay using the CM/ECF system, or through first class mail, which will provide notice to the following parties:

Antonio Dwayne Jones  
2055 Registry Court  
Hampton, GA 30228  
*Debtor*

Chonte Sheri Faulkner  
2055 Registry Court  
Hampton, GA 30228  
*Joint Debtor*

Cynthia Faulkner  
2055 Registry Court  
Hampton, GA 30228  
*Non-Filing Co-Debtor*

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*Attorneys for Debtor*

Melissa J. Davey  
Standing Ch. 13 Trustee  
Suite 200  
260 Peachtree Street, NW  
Atlanta, GA 30303  
*Trustee*

O'KELLEY & SOROHAN  
ATTORNEYS AT LAW, LLC

\_\_\_\_\_/s/  
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Georgia Bar No. 868917  
*Attorneys for 2017-2 IH Borrower,  
LP*